

Babergh District Council

**Assington  
Neighbourhood Plan  
2018-2036**

**Independent Examiner's Report**

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19 March 2021

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## Summary

I have been appointed as the independent examiner of the Assington Neighbourhood Development Plan.

Assington is a linear settlement spread out along the main road, The Street, with clusters at Further Street and Dorking Tye. It sits within a rolling farmlands landscape. The village has a number of facilities and businesses including a farm shop. It lies about four miles southeast of Sudbury. It has a population of about 402 according to the 2011 Census.

The well-presented Plan has a clear vision and objectives. It takes an ambitious approach with 24 policies covering a variety of issues including the allocation of sites, the identification of a number of Local Green Spaces, heritage and businesses.

It has been necessary to recommend some modifications. In the main these are intended to ensure the Plan is clear and precise and provides a practical framework for decision-making as required by national policy and guidance. These do not significantly or substantially alter the overall nature of the Plan.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Babergh District Council that the Assington Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI  
Ann Skippers Planning  
19 March 2021



## 1.0 Introduction

This is the report of the independent examiner into the Assington Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Babergh District Council (BDC) with the agreement of the Parish Council, to undertake this independent examination.

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over thirty years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and professional experience to carry out this independent examination.

## 2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions<sup>1</sup> are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, retained European Union (EU) obligations<sup>2</sup>
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

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<sup>1</sup> Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

<sup>2</sup> Substituted by the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 which came into force on 31 December 2020

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.<sup>3</sup> It states that:

- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

The examiner is also required to check<sup>4</sup> whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.<sup>5</sup>

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case BDC. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

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<sup>3</sup> Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

<sup>4</sup> Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

<sup>5</sup> The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

### 3.0 The examination process

I have set out my remit in the previous section. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).<sup>6</sup>

PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>7</sup> Some representations suggest additions and amendments to policies. Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required.

PPG<sup>8</sup> explains that it is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.<sup>9</sup>

I sought clarification on a number of matters from the Parish Council and BDC in writing on 9 December 2020 and my list of questions is attached to this report as Appendix 2. I am very grateful to both Councils who have provided me with comprehensive answers to my questions. The responses received (all publicly available) have enabled me to examine the Plan without the need for a hearing.

In 2018, the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) published guidance to service users and examiners. Amongst other matters, the guidance indicates that the qualifying body will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for a qualifying body to make any comments; it is only if they wish to do so. The Parish Council made comments and I have taken these into account.

I am very grateful to everyone for ensuring that the examination has run so smoothly and in particular Paul Bryant at BDC.

I made an unaccompanied site visit to familiarise myself with the Plan area on 28 February 2021.

Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

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<sup>6</sup> PPG para 055 ref id 41-055-20180222

<sup>7</sup> Ibid

<sup>8</sup> Ibid para 056 ref id 41-056-20180222

<sup>9</sup> Ibid

As a result of some modifications consequential amendments may be required. These can include changing section headings, amending the contents page, renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on.

I regard these as primarily matters of final presentation and do not specifically refer to such modifications, but have an expectation that a common sense approach will be taken and any such necessary editing will be carried out and the Plan's presentation made consistent.

## **4.0 Neighbourhood plan preparation**

A Consultation Statement has been submitted. It meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

Work on the Plan began in earnest in June 2018 when a working group of volunteer residents was established to take the idea of a neighbourhood plan forward.

Meetings of the working group have all been published. During the two year period of preparation, regular publicity has been used to promote events. The Plan has been a standing item on the Parish Council's meeting schedule; the Parish Council's agendas and minutes are all published and also appear in the Assington News, delivered to all households. A website has been set up as well as a dedicated Facebook page.

The Plan has featured at the village fete. Specific engagement has been carried out with various organisations and groups in the village including Assington Village Charity to engage younger residents.

A household survey was sent to all households and hand delivered resulting in a good response rate of 52%. An event followed to feedback the survey results. A further event was held to feedback the results of the site and village design assessments led by AECOM.

Pre-submission (Regulation 14) consultation took place between 15 February – 30 March 2020. This included a short period of the national lockdown. Consideration has been given by the Parish Council as to whether this affected the consultation adversely, but given that the majority of the period had taken place and most responses were submitted online, it was concluded to be acceptable.

During the pre-submission consultation, a drop-in launch event was held. A publicity postcard was delivered to every household and banners and posters also advertised the launch. Around 70 people attended. The Plan was available online and in hard copy at various locations in the Parish. A loan service was also set up to enable residents to 'borrow' hard copies.

Appendix 8 of the Consultation Statement details the pre-submission responses received.<sup>10</sup>

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 24 August – 16 October 2020.

The Regulation 16 stage resulted in eight representations. Whilst I make reference to some responses and not others, I have considered all of the representations and taken them into account in preparing my report.

## **5.0 Compliance with matters other than the basic conditions**

I now check the various matters set out in section 2.0 of this report.

### **Qualifying body**

Assington Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

### **Plan area**

The Plan area is coterminous with the administrative boundary for the Parish. BDC approved the designation of the area on 29 June 2018. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on page 6 of the Plan.

### **Plan period**

The Plan period is 2018 – 2036. This is clearly stated in the Plan itself. This requirement is therefore satisfactorily met.

### **Excluded development**

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the Basic Conditions Statement.

### **Development and use of land**

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the

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<sup>10</sup> Consultation Statement page 48



community's priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.<sup>11</sup>

In this instance, 'community actions' have been included in amongst policies. However, the Plan clearly explains what they are and that they do not form part of the policies.<sup>12</sup> They are clearly distinguishable from the planning policies and appear in different coloured boxes. I consider this to be an appropriate approach for this particular Plan.

## 6.0 The basic conditions

### Regard to national policy and advice

The Government published a National Planning Policy Framework (NPPF) in 2012. A revised NPPF was first published on 24 July 2018. This revised NPPF was further updated on 19 February 2019. When published, it replaced both the 2012 and 2018 documents.

The NPPF is the main document that sets out national planning policy. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the delivery of strategic policies and should shape and direct development outside of these strategic policies.<sup>13</sup>

Non-strategic policies are more detailed for specific areas, neighbourhoods or types of development.<sup>14</sup> They can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment as well as set out other development management policies.<sup>15</sup>

The NPPF also makes it clear that neighbourhood plans should not promote less development than that set out in strategic policies or undermine those strategic policies.<sup>16</sup>

The NPPF states that all policies should be underpinned by relevant and up to date evidence; evidence should be adequate and proportionate, focused tightly on supporting and justifying policies and take into account relevant market signals.<sup>17</sup>

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<sup>11</sup> PPG para 004 ref id 41-004-20190509

<sup>12</sup> The Plan, page 5

<sup>13</sup> NPPF para 13

<sup>14</sup> Ibid para 28

<sup>15</sup> Ibid

<sup>16</sup> Ibid para 29

<sup>17</sup> Ibid para 31

Policies should be clearly written and unambiguous so that it is evident how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area including those in the NPPF.<sup>18</sup>

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at [www.gov.uk/government/collections/planning-practice-guidance](http://www.gov.uk/government/collections/planning-practice-guidance) which is regularly updated. The planning guidance contains a wealth of information relating to neighbourhood planning. I have also had regard to PPG in preparing this report.

PPG indicates that a policy should be clear and unambiguous<sup>19</sup> to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the planning context and the characteristics of the area.<sup>20</sup>

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.<sup>21</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>22</sup>

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan has responded to national policy and guidance. An appraisal<sup>23</sup> briefly sets out how the Plan aligns with the NPPF's key topic principles.

### **Contribute to the achievement of sustainable development**

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development.

The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.<sup>24</sup> This means that the planning system has three overarching and interdependent objectives which should be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.<sup>25</sup> The objectives are economic, social and environmental.<sup>26</sup>

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<sup>18</sup> NPPF para 16

<sup>19</sup> PPG para 041 ref id 41-041-20140306

<sup>20</sup> Ibid

<sup>21</sup> Ibid para 040 ref id 41-040-20160211

<sup>22</sup> Ibid

<sup>23</sup> Basic Conditions Statement page 9

<sup>24</sup> NPPF para 7

<sup>25</sup> Ibid para 8

<sup>26</sup> Ibid

The NPPF confirms that planning policies should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account to reflect the character, needs and opportunities of each area.<sup>27</sup>

Whilst this has formed part of my own assessment, the Basic Conditions Statement explains how each Plan policy helps to achieve sustainable development as outlined in the NPPF.<sup>28</sup>

### **General conformity with the strategic policies in the development plan**

The development plan consists of the saved policies of the Babergh Local Plan Alteration No 2 (LP) adopted in June 2006 and the Babergh Core Strategy (CS) 2011 – 2031 adopted in February 2014. In addition the Minerals Core Strategy and the Waste Core Strategy produced by Suffolk County Council also form part of the development plan.

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains an assessment of how each policy generally conforms to relevant LP and CS policies.<sup>29</sup> Where I have not specifically referred to a strategic policy, I have considered all strategic policy in my examination of the Plan.

### ***Emerging Joint Local Plan***

BDC and Mid Suffolk District Council are working together to deliver a new Joint Local Plan (JLP) which will cover the period up to 2037. Once adopted, it will replace all other policies across the two Districts. The JLP is at Pre-Submission (Regulation 19) stage at the time of writing.

There is no legal requirement to examine the Plan against emerging policy. However, PPG<sup>30</sup> advises that the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which the Plan is tested.

Furthermore Parish Councils and local planning authorities should aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging Local Plan and the adopted development plan with appropriate regard to national policy and guidance.<sup>31</sup>

The Plan has rightly been produced in parallel with the production of the emerging Local Plan.

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<sup>27</sup> NPPF para 9

<sup>28</sup> Basic Conditions Statement page 11

<sup>29</sup> Ibid page 14

<sup>30</sup> PPG para 009 ref id 41-009-20190509

<sup>31</sup> Ibid

## **Retained European Union Obligations**

A neighbourhood plan must be compatible with retained European Union (EU) obligations. A number of retained EU obligations may be of relevance for these purposes including those obligations in respect of Strategic Environmental Assessment, Environmental Impact Assessment, Habitats, Wild Birds, Waste, Air Quality and Water matters.

With reference to Strategic Environmental Assessment (SEA) requirements, PPG<sup>32</sup> confirms that it is the responsibility of the local planning authority, in this case BDC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It states that it is BDC who must decide whether the draft plan is compatible with relevant retained EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

### ***Strategic Environmental Assessment and Habitats Regulations Assessment***

The provisions of the Environmental Assessment of Plans and Programmes Regulations 2004 (the 'SEA Regulations') concerning the assessment of the effects of certain plans and programmes on the environment are relevant. The purpose of the SEA Regulations, which transposed into domestic law Directive 2001/42/EC ('SEA Directive'), are to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes.

The provisions of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), which transposed into domestic law Directive 92/43/EEC (the 'Habitats Directive'), are also of relevance to this examination. Regulation 63 of the Habitats Regulations requires a Habitats Regulations Assessment (HRA) to be undertaken to determine whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects. The HRA assessment determines whether the Plan is likely to have significant effects on a European site considering the potential effects both of the Plan itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment of the implications of the Plan for that European Site, in view of the Site's conservation objectives, must be carried out.

A SEA Screening Determination dated May 2020 has been submitted. It in turn refers to a SEA Screening Report prepared by Land Use Consultants. This notes that the Plan allocates six sites, but that five of these sites already have planning permission. The other site allocates three units. On this basis, the Screening Report screened out the Plan.

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<sup>32</sup> PPG para 031 ref id 11-031-20150209

Consultation with the three statutory bodies was undertaken and the Environment Agency (EA), Natural England (NE) and Historic England (HE) agreed with the conclusions.

The Screening Determination therefore concludes that the Plan does not require a SEA.

I have treated the Screening Report and the Screening Determination to be the statement of reasons that PPG advises must be prepared and submitted with the neighbourhood plan proposal and made available to the independent examiner where it is determined that the plan is unlikely to have significant environmental effects.<sup>33</sup>

Taking account of the characteristics of the Plan and the characteristics of the areas likely to be affected, I am of the view that EU obligations in respect of SEA have been satisfied.

A HRA Screening Determination dated May 2020 has been submitted. It refers in turn to a HRA Screening Report prepared by Place Services.

The Screening Determination states there are six European sites which lie within 20km of the Plan area. These are the Abberton Reservoir Special Protection Area (SPA) and Ramsar, the Colne Estuary SPA and Ramsar and the Stour and Orwell Estuaries SPA and Ramsar.

The Plan area does not fall within any of the Zones of Influence for any of these sites. The Screening Determination concludes that the Plan will not have any likely significant effects either alone or in combination with other plans and projects and therefore screens the Plan out.

Consultation with Natural England has taken place and they concur with this conclusion.

On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 which provides that the making of the plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

Given the distance, nature and characteristics of the nearest European sites and the nature and contents of this Plan, I agree with the conclusion of the Screening Determination that an appropriate assessment is not required and accordingly consider that the prescribed basic condition is complied with, namely that the making of the Plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

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<sup>33</sup> PPG para 028 ref id 11-028-20150209

### ***Conclusion on retained EU obligations***

National guidance establishes that the ultimate responsibility for determining whether a plan meets EU obligations lies with the local planning authority.<sup>34</sup> In undertaking work on SEA and HRA, BDC has considered the compatibility of the Plan in regard to retained EU obligations and does not raise any concerns in this regard.

### **European Convention on Human Rights (ECHR)**

The Basic Conditions Statement contains a statement in relation to human rights.<sup>35</sup> Having regard to the Basic Conditions Statement, there is nothing in the Plan that leads me to conclude there is any breach or incompatibility with Convention rights.

## **7.0 Detailed comments on the Plan and its policies**

In this section I consider the Plan and its policies against the basic conditions. As a reminder, where modifications are recommended they appear in **bold text** and where I suggest specific changes to the wording of the policies or new wording these appear in **bold italics**.

The Plan is presented to a very high standard and contains 24 policies. There is an eye catching front cover. The Plan begins with a foreword and an acknowledgements page which set the scene together with a helpful contents page.

### **1. Introduction**

This is a helpful introduction to the Plan that sets out the background to the Plan and how it has evolved, explaining that a Steering Group was set up to lead preparation. It summarises the key stages of Plan preparation in an informative way.

Some natural updating will be needed, for example of the diagram on page 7 of the Plan as the Plan progresses towards its final version. I regard this as a matter of final presentation and do not make a specific modification in this respect.

### **2. Assington Past and Present**

This section sets out the interesting history of the Parish.

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<sup>34</sup> PPG para 031 ref id 11-031-20150209

<sup>35</sup> Basic Conditions Statement page 22

### 3. Current Issues

Summarising the results from the residents' questionnaire, this section sets out the key issues identified through engagement.

### 4. Planning Policy Context

This section usefully explains the planning policy context for the Plan. I asked both BDC and the Parish Council whether any implications arose from the publication of the JLP (Regulation 19) in November 2020. I comment on this as necessary throughout the report. However, it is clear that some natural updating to this section and others will be needed and I regard this wording as something that can be agreed between the two Councils as the Plan progresses.

### 5. Vision and Objectives

The vision for the area is:

“In 2036 Assington will remain a rural and attractive village, having protected its countryside setting by ensuring that new development is in proportion to and respectful of the character of the village, while at the same time maintaining a thriving, vibrant and open community.”

The vision is supported by five objectives. All are articulated well, relate to the development and use of land and will help to deliver the vision.

### 6. Spatial Strategy

#### Policy ASSN1 - Spatial Strategy

This section sets out the overall strategy for new development.

In the CS, Assington is identified as a 'Hinterland Village'.

In Core and Hinterland Villages, the CS states that 1,050 dwellings should be planned for. CS Policy CS2, which defines 43 Hinterland Villages, explains that this means some development to meet the needs within the Hinterland Villages will be accommodated. All proposals are assessed against CS Policy CS11 which indicates development in Hinterland Villages is acceptable where it can be demonstrated that proposals have a

close functional relationship to the existing settlement as well as meeting a number of criteria set out in the policy. The cumulative impact of development should also be taken into account.

In the countryside outside Hinterland Villages, CS Policy CS2 states that development will only be permitted in exceptional circumstances subject to a proven justifiable need.

The Plan defines a settlement boundary. This is in two parts reflecting the nature of the linear village. It is shown clearly on the Village Centre Inset Map.

The settlement boundary takes its lead from that defined in the LP 2006, but has been reviewed and updated to reflect recent future opportunities for new development. I am informed that the proposed settlement boundary differs to that proposed in the emerging JLP, but that this is a matter that BDC can review to ensure consistency through the JLP examination. From my observations, I consider that the boundary shown in the Plan had been drawn up logically and will allow for sustainable development commensurate with the village's designation in the settlement hierarchy.

The policy explains that the Plan area will "accommodate development commensurate with Assington's designation as a Hinterland Village..." focusing new development within the settlement boundary.

Outside the settlement boundary, development is only permitted where it is essential for agriculture, horticulture, forestry, outdoor recreation or other uses that needs to be sited in a countryside location. The NPPF is very clear that development can take place in the countryside. For example, it encourages policies to enable the sustainable growth and expansion of businesses in rural areas and supports rural tourism and leisure development that respects the character of the countryside.<sup>36</sup> I therefore regard this policy approach as too restrictive in relation to the NPPF.

The policy continues that in addition to the essential uses it sets out, such proposals must also demonstrate a local need and that it cannot be located within the settlement boundary. Although BDC has not raised any objection to this approach, the requirement to set out a local need and to ensure it cannot be located with the settlement boundary is not reflected in the NPPF.

Whilst it is possible to move away from national policy, this requires justification. I can find no justified reason to restrict development in this way in this Plan area. Therefore a number of modifications to the policy are made in this respect to ensure it has regard to the NPPF.

With these modifications, the policy will meet the basic conditions. It will take account of the NPPF's objective of significantly boosting the supply of homes commensurate with the village's status in the CS and its support for a prosperous rural economy, be in general conformity with the CS and particularly CS Policies CS2, CS3, CS11 and CS15 and

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<sup>36</sup> NPPF para 83



take account of the emerging JLP policy context and will help to achieve sustainable development.

- **Change the third paragraph of the policy to read: “Proposals for development located outside the Settlement Boundary will only be permitted *in accordance with national and District level policies.*”**
- **Remove the words “In exceptional circumstances” from the start of the fourth paragraph of the policy so it will begin “The redevelopment...”**
- **Delete the fifth paragraph of the policy**

## 7. Housing

### Policy ASSN2 - Housing Development

In response to a query, I am informed that the Plan area has a minimum housing requirement of 38 dwellings. This is based on the latest figures available through the emerging JLP. All of these had planning permission as of 1 April 2018. The Plan at Appendix C sets out a number of additional consents granted since 1 April 2018.

Policy ASSN2 therefore provides for around 67 dwellings over the Plan period. Five site allocation policies follow. Five of the sites already benefit from planning permission, but one (Policy ASSN8) is new.

Neighbourhood plans can be developed before or at the same time as a Local Plan is being produced.<sup>37</sup> I am also mindful that neighbourhood plans do not need to have policies addressing all types of development. However, where they do contain policies relevant to housing supply, then account should be taken of the latest and up to date evidence.

I consider this policy satisfactorily meets the latest requirements. BDC has also confirmed this position. It therefore takes account of the NPPF, reflects the current information and evidence available at District level and will help to achieve sustainable development.

There are modifications to the policy and supporting text to as a consequence of the changes proposed to Policy ASSN1.

The supporting text to the policy refers to the emerging JLP in a number of places and with the passage of time, needs updating. This can be carried out and agreed between the two Councils as the Plan progresses.

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<sup>37</sup> PPG para 009 ref id 41-009-20190509

With these modifications, the policy will meet the basic conditions.

- **Delete the word “and” at the end of criterion ii. and delete criterion iii. from the policy**
- **Delete the words “...in addition to the criteria set out in Policy ASSN1, “ from the last paragraph of the policy**
- **Delete the words “...in accordance with the criteria in Policy ASSN1.” from paragraph 7.6 v) on page 20 of the Plan**

### **Policies ASSN3 – ASSN8**

Policies ASSN3 – ASSN8 are site allocations.

Policy ASSN3 is site at Assington Barn. This site is now under construction and should be removed as a site allocation. The same applies to Policy ASSN4 Land east of St Edmund’s Close and Policy ASSN5 Land north of Assington Barn and Policy ASSN7 Land south of Maxton and Russets, The Street.

Policy ASSN6 is Land adjacent to Cornerways, The Street. This is a small site for no more than two semi-detached dwellings of no more than 5.8m in height. Permission was granted in 2018 (reference 18/03392).

Policy ASSN8 allocates up to three bungalows on land east of Meadow Way. Each dwelling should have no more than three bedrooms and a floorspace area is given too at a maximum of 95 square metres. A footway is also sought from the site to an existing footway at Vicary Way.

This is the only site allocation which does not already benefit from planning permission. The policy includes a stipulation that development should not commence before 2031 given the level of existing commitments in the village. It was identified through a site assessment exercise.

The AECOM Site Assessment report explains that eight sites have been assessed; all were generated through a “Call for Sites’ process and have not been assessed through Strategic Housing and Economic Land Availability Assessment (SHELAA). It concluded that two sites (01 and 02) considered suitable for 16 houses, could be allocated. Policy ASSN8 is site 02. Other sites put forward by the Parish Council which already had the benefit of planning permission were not assessed as part of this process given that the principle of development has already been established.

I consider that Policies ASSN3, 4, 5 and 7 should now be deleted as construction has started. Policies ASSN 6 and 8 are appropriate site allocations and meet the basic

conditions by helping to boost housing supply, being in general conformity with the housing element of the CS and helping to achieve sustainable development.

- **Delete Policies ASSN3, ASSN4, ASSN5 AND ASSN7**
- **Consequential amendments to the Plan and Policies Maps will be needed**

### **Policy ASSN9 – Affordable Housing on Rural Exception Sites**

The NPPF supports the provision of rural exception sites to enable local needs to be provided for.<sup>38</sup> The Plan explains that the average house price in Babergh is over ten times the average household income.

This policy supports affordable housing schemes on rural exception sites with an emphasis on a proven local need and local connection criteria for the affordable housing. Some market housing can be included in line with the stance of national policy. It is clearly worded.

However, it restricts such sites to those outside, but adjoining the settlement boundary. This then is more restrictive than both national policy and CS Policy CS20 which takes the approach of allowing proposals which are adjacent or “well related” to a settlement boundary. A modification is therefore made to address this divergence which has not been justified in the Plan.

With this modification, I consider the policy will have regard to national policy for the supply of homes in relation to the size, type and tenure of housing needed for different groups and its support for rural exception sites. It will contribute towards the achievement of sustainable development, particularly the social objective. It will be in general conformity with the CS and especially CS Policy CS20. Therefore it will meet the basic conditions.

- **Add the words “or otherwise well related to” after “...outside but adjoining...” in the first paragraph of the policy**

### **Policy ASSN10 – Housing Mix**

The NPPF states that the needs of groups with specific housing requirements should be addressed to support the Government’s objective of significantly boosting housing supply.<sup>39</sup>

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<sup>38</sup> NPPF para 77

<sup>39</sup> Ibid para 59

The Plan explains that the Strategic Housing Market Assessment Update of January 2019 (SHMA) identified the need for two bedroomed homes followed by three bedroomed homes across Babergh. A questionnaire sent to local residents in December 2018 identified support for two and three bedroomed homes as well as bungalows. The Census 2011 shows Assington has a high number of four or more bedroomed homes.

Policy ASSN10 sets out a housing mix requirement for smaller units in developments of ten or more dwellings to provide a minimum of 66% of the development to be two and three bedroom dwellings to redress this balance and reflect local circumstances. The percentage sought corresponds to the findings of the SHMA. The policy is flexibly written recognising viability and other site constraints as well as evidence based on the latest housing needs evidence.

The policy has regard to national policy, contributes to the achievement of sustainable development and is in general conformity with strategic policy, particularly CS Policy CS18. It therefore meets the basic conditions and no modifications are put forward.

### **Policy ASSN11 – Measures for New Housing Development**

The Government introduced national technical standards for housing in 2015. A Written Ministerial Statement (WMS)<sup>40</sup> explains that neighbourhood plans should not set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.

This policy seeks compliance with the national technical standards and so whilst it does not set any new standards, I note the WMS also states that neighbourhood plans should not be used to apply the national technical standard. This is echoed in PPG.<sup>41</sup>

PPG also states that where a local planning authority or qualifying body wishes to require an internal space standard, they should do so by reference in their Local Plan to the nationally described space standard.<sup>42</sup> There is therefore, arguably, some ambiguity as to whether neighbourhood plans can include such standards. However, where a need has been identified, there needs to be justification.<sup>43</sup> No such justification has been put forward in this case.

This element of the policy therefore does not meet the basic conditions as it does not have regard to national policy and guidance.

The policy also refers to storage facilities for cycles and bins. This is also covered in a policy which appears later in the Plan, Policy ASSN19 j. It is not necessary to repeat that element of the policy here.

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<sup>40</sup> Written Ministerial Statement 25 March 2015

<sup>41</sup> PPG para 001 ref id 56-001-20150327

<sup>42</sup> Ibid para 018 ref id 56-018-20150327

<sup>43</sup> Ibid para 020 ref id 56-020-20150327

For the above reasons, I recommend Policy ASSN11 be deleted.

- **Delete Policy ASSN11**

## 8. Natural Environment

### Policy ASSN12 – Area of Local Landscape Sensitivity

The NPPF requires the planning system to contribute and enhance the natural and local environment including protecting and enhancing valued landscapes.<sup>44</sup>

Work was carried out as part of the Plan preparation to assess the landscape of the Plan area. A Supporting Document (SD) titled “Area of Local Landscape Sensitivity” details the approach taken. As a result of this work, an Area of Local Landscape Sensitivity has been identified. This is shown on Map 10 in the Plan. This new designation effectively replaces an existing Special Landscape Area (SLA) designation, identified in the 1980s but not proposed to be taken forward in the emerging JLP. This new designation also extends the boundaries of the existing SLA recognising the high quality of the landscape.

I saw at my visit that this area is distinguishable from surrounding land and the remainder of the Parish given its topography and character. I consider that the area has been appropriately designated and is supported by evidence in the SD.

Turning now to the wording of the policy, it is clearly and flexibly worded. It does not prevent development *per se*, but seeks to ensure any development within this area is appropriate given the special qualities of this landscape. There is however one small amendment to the wording of the policy to increase flexibility as it seeks to protect and enhance which is a high bar.

With this modification, the policy will meet the basic conditions as it will take account of the NPPF’s stance on contributing to and enhancing the natural and local environment and recognising the intrinsic character and beauty of the countryside.<sup>45</sup> It will be in general conformity with the CS and in particular Policy CS15 which, amongst other things, sets out how development should respect the local context and character of different parts of the District and will help to achieve sustainable development.

- **Change the phrase “...protect and enhance...” to “...protect *or* enhance...” in criterion i) of the policy**

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<sup>44</sup> NPPF para 170

<sup>45</sup> Ibid

## **Policy ASSN13 – Protected Views**

The Plan explains that there are many views valued by the local community. This policy identifies 16 views which are shown on Map 11 in the Plan as well as the Policies Maps. The views have been identified following an assessment “Assington Views Appraisal”. The assessment describes each view with an accompanying photograph. The assessment provides sufficient justification for the views which I saw on my site visit were appropriately selected.

The wording of the policy does not prevent any development per se, but rather seeks to ensure that development does not have a detrimental impact on the key features of any view. I consider this is an appropriate and sufficiently flexible approach.

The policy takes account of national policy and guidance in recognising the intrinsic character and beauty of the countryside and promoting and reinforcing local distinctiveness.<sup>46</sup> It is in general conformity with, and adds a local layer of detail to, strategic policies and CS Policies CS11 and CS15 in particular which recognises the need for development to respect the local context and character of the District. It will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are put forward.

## **Community Action CA1**

This is a clearly worded action giving support to working with landowners to create new community green spaces in the village.

## **Policy ASSN14 – Dark Skies**

The NPPF highlights the impact light pollution can have on health and living conditions as well as the natural environment, both locally and in relation to the wider area.<sup>47</sup>

This policy seeks to provide a balance between safety that lighting can bring with the harm that light pollution can cause. It is clear that the dark skies in the Parish are particularly valued by the local community.

It is clearly worded with flexibility. It meets the basic conditions particularly taking account of the NPPF and helping to achieve sustainable development and no modifications are put forward.

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<sup>46</sup> NPPF paras 127, 170

<sup>47</sup> Ibid para 180

## Policy ASSN15 – Local Green Spaces

10 areas of Local Green Space (LGS) are proposed. All are shown on the Policies Maps.

The NPPF explains that LGSs are green areas of particular importance to local communities.<sup>48</sup>

The designation of LGSs should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.<sup>49</sup> It is only possible to designate LGSs when a plan is prepared or updated and LGSs should be capable of enduring beyond the end of the plan period.<sup>50</sup> The NPPF sets out three criteria for green spaces.<sup>51</sup> Further guidance about LGSs is given in PPG.

A Local Green Space Assessment has been undertaken. I also saw the areas on my site visit.

**1. Assington Park, north part** is former parkland of some 12 hectares. It is close to the community and has a public footpath through so is valued for its recreation, historical significance and expansive views.

**2. Assington Park, south part** is described in the Assessment as an area of permanent grazing and commercial forestry of about 11 hectares. It is close to the community and accessed by public footpaths. The local community value its setting, the natural grassland and its history. It surrounds part of the setting of the picturesque Church of St Edmund, a Grade I listed building.

**3. Area of the Old Vicarage** is an area of around 0.25 hectare, close to the community. A road and public footpath run adjacent to the site. It is particularly valued for its natural grassland and vistas of a traditional farmland landscape, comprising one of the few areas of land beside The Street opening onto countryside. It provides an overflow for the Church car park.

**4. Hill Farm Land** is an area of some 5.5 hectares on either side of the Brook comprising grazing land. It is close to the community. A public footpath runs along the east side. There is historical and biodiversity interest. The site gives a good view of the Church. It was popular with walkers at the time of my visit.

**5. Meadow View** is an area of grassland of about 1.5 hectares. It is close to the local community and crossed by a public footpath. It provides a view east from the village towards the Assington Brook valley. Traditionally the land has had public access and is therefore valued as a green space, but this is not formalised.

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<sup>48</sup> NPPF para 99

<sup>49</sup> Ibid

<sup>50</sup> Ibid

<sup>51</sup> Ibid para 100

**6. Wildlife Area** is valued for its biodiversity value. This area of some 0.6 hectares is close to the community.

**7. The Mere** is an area of grassland including a flooded marsh of around 1.5 hectares. It is close to the community. It is valued for its ecological significance.

**8. Oatetch Grove and Meadow** comprises some 3.5 hectares of grazing meadow and a small ancient wood. It is close to the community and served by a public footpath which connects to others in the area. It is designated as a County Wildlife Site. There is a view to the Church. It is particularly valued for its footpath, views and biodiversity.

**9. The Reservoir** is a fenny valley field with two fishing lakes. It is some 2.5 hectares. Close to the community, it has some permissive access. It is valued for its seclusion, tranquility and wildlife as well as its setting.

**10. Mill Farm Land** comprises grazing land, orchard and wet woodland amounting to some 5.4 hectares. It is close to the community with a public footpath on two sides. The site is of historical significance to the village. It is valued for the wildlife associated with the reservoir and as a place for walking.

I note that proposed LGSs 1 and 2 lie adjacent to each other and LGSs 4 - 9 are adjacent to each other and therefore form one large tract of land on a map. However, on the ground, these are adjacent, but distinctive areas.

In my view, all of the proposed LGSs meet the criteria in the NPPF satisfactorily. All are demonstrably important to the local community, all are capable of enduring beyond the Plan period, all meet the criteria in paragraph 100 of the NPPF and their designation is consistent with the local planning of sustainable development and investment in sufficient homes, jobs and other essential services given the housing figures for this local area and other policies in the development plan and this Plan.

Turning now to the wording of the policy, the proposed LGSs are referred to and cross-referenced to the Policies Maps. The next element in setting out what development might be permitted, should take account of and be consistent with the NPPF which explains the management of development in LGSs should be consistent with that in the Green Belt.<sup>52</sup> Therefore the policy needs modification to ensure that it takes account of national policy and is clear.

There are also two parts of the supporting text that need amendment. Both are in paragraph 8.19. The first element is that the paragraph states that it is the independent examiner who makes the final determination on whether a particular space meets the criteria in the NPPF. This is not correct; it is the local planning authority in deciding whether to progress the Plan to referendum.

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<sup>52</sup> NPPF para 101



The second element is the explanation of the development which can take place on LGSs; the explanation given in paragraph 8.19 is not entirely consistent with the NPPF and no justification has been given for its departure.

Finally, the Policies Map on page 57 of the Plan notates the first area of LGS as “ASSN 5 - 1”. This should be corrected as a minor editing matter.

With these modifications, the policy and its supporting text will meet the basic conditions.

- **Change the second paragraph of the policy to read: “*Development in the Local Green Spaces will be consistent with national policy for Green Belts.*”**
- **Change the words “...independent examiner...” in paragraph 8.19 on page 39 of the Plan to “*local planning authority*”**
- **Change the last sentence of paragraph 8.19 so that it reads: “*The identification of these spaces as LGS means that any development on them will be consistent with national and local policies for the Green Belt. Permitted development rights, including the operational requirements of infrastructure providers, are not affected by this designation*”**
- **Change the notification on the Policies Map on page 57 of the Plan from “ASSN 5 – 1” to “ASSN 15 -1”**

## Policy ASSN16 – Biodiversity

The NPPF<sup>53</sup> is clear that planning policies should contribute to and enhance the natural and local environment including through minimising impacts on biodiversity and providing net gains. It continues<sup>54</sup> that “if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”.

The policy seeks to ensure development proposals avoid any loss or harm to trees, hedgerows and other features such as ponds.

It recognises the need for mitigation, but indicates that where loss or harm to such features is unavoidable, the benefits of the development must outweigh any impacts. This is similar to the test outlined in the NPPF for Sites of Scientific Interest.<sup>55</sup> There is no explanation in the Plan as to why this test would also be appropriate for these other

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<sup>53</sup> NPPF para 170

<sup>54</sup> Ibid at para 175

<sup>55</sup> Ibid

features in this Parish. This element of the policy therefore does not take account of national policy and guidance. A modification is made to address this issue.

The policy also refers to mitigation proposals forming an integral part of the design concept and layout of any development scheme. Whilst this approach may well be appropriate, off-site mitigation may well also be acceptable and could, on occasion, be preferred. There is no explanation as to why this particular approach is the only one appropriate for this Parish. A modification is therefore made to address this.

The last part of the policy supports development providing a net gain in biodiversity. This in itself is acceptable, but the wording may inadvertently open the floodgates for all types of development. A modification is therefore made to ensure that development is in itself acceptable.

With these modifications, the policy will take account of national policy and guidance, add a local layer to the relevant strategic policies, in particular CS Policy CS15 which, amongst other things, seeks to protect and enhance biodiversity, and help to achieve sustainable development. It will therefore meet the basic conditions.

The supporting text will also require some consequential amendments.

- **Change the second paragraph of the policy (criteria i) and ii)) to read: “Where such losses or harm are unavoidable, *adequate mitigation measures or, as a last resort, compensation measures will be sought. If suitable mitigation or compensation measures cannot be provided, then planning permission should be refused.*”**
- **Delete the third paragraph of the policy which begins: “It is expected that the mitigation proposals will form...” to end**
- **Add the words “*Otherwise acceptable*” at the start of the last paragraph of the policy which begins “Development proposals will be supported...”**

## 9. Built Environment and Design

### Policy ASSN17 - Heritage Assets

The policy seeks to ensure that development proposals preserve or enhance the significance of heritage assets through an understanding of the asset’s significance and the provision of clear justification for any works that would lead to harm.

The NPPF is clear that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.<sup>56</sup> It continues<sup>57</sup> that great weight should be given to the assets' conservation when considering the impact of development on the significance of the asset.

However, the NPPF distinguishes between designated heritage assets and non-designated heritage assets outlining different approaches. The policy should be clear that it only relates to designated heritage assets.

Criterion c. refers to a Design Guide produced by AECOM. The work produced by AECOM is titled "Design Guidelines"; the reference should be consistent. This will also need some consequential amendments elsewhere in the Plan on pages 4 and 60 and I make this modification at this point in the report for ease.

Criterion d. refers to the Design Guidelines produced by AECOM. The policy seeks to ensure that development is "in line" with the Design Guidelines. However, it would be clearer to indicate that account should be taken of the Design Guidelines.

With these modifications, the policy will meet the basic conditions taking account of national policy, be in general conformity with strategic policies and particularly CS Policy CS11 which refers to heritage assets and Policy CS15 which indicates that development proposals must ensure adequate protection or enhancement as appropriate are given to distinctive local features which characterise the heritage assets of Babergh's built and natural environment and especially help to achieve sustainable development.

- **Add the word "*designated*" before "...heritage assets..." in the first sentence of the policy and in criterion a.**
- **Change the words "Design Guide" to "Design Guidelines" in criterion c. and consequently on pages 4 and 60 of the Plan**
- **Change the words "in line with" in criterion d. to "*taking account of*"**

## **Policy ASSN18 – Assington Special Character Area**

This policy seeks to designate a Special Character Area which is shown on Map 14.

The Plan explains that this is a central part of the village around the pub and north to Assington Hall and its parkland setting. The area includes a number of listed buildings and preserved trees and has a variety of other buildings which are not listed but worthy of interest.

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<sup>56</sup> NPPF para 184

<sup>57</sup> Ibid para 193

At my site visit I saw that this area is an integral part of the village’s distinctive character and can be distinguished from other parts of the village.

The policy designates the area and requires any development proposal to preserve and enhance the significance of heritage assets in or adjoining the area and to give consideration to enhancing the distinct characteristics of the area. This then is a higher bar than for Conservation Areas where development schemes are required to preserve or enhance character or appearance. A modification is therefore made in this respect.

With this modification, the policy will take account of the NPPF which explains that the creation of high quality buildings and places is fundamental to what planning should achieve<sup>58</sup> and that neighbourhood plans have an important role to play in identifying the special qualities of each area and what expectations for new development there are.<sup>59</sup> It also sets out a local layer of policy in general conformity with strategic policy and will help to achieve sustainable development.

The policy then continues that where harm is not justified by any public benefits, it will not be supported. This is akin to the NPPF’s stance on designated heritage assets and exceeds the NPPF’s stance on non-designated heritage assets.

Modifications are therefore made in this respect to ensure there is a balance between the designation of this area and the way in which any development will be considered.

With these modifications, the policy will meet the basic conditions. In particular, it will take account of the NPPF which explains that the creation of high quality buildings and places is fundamental to what planning should achieve<sup>60</sup> and that neighbourhood plans have an important role to play in identifying the special qualities of each area and what expectations for new development there are.<sup>61</sup> It also sets out a local layer of policy in general conformity with strategic policy including CS Policy CS15 and will help to achieve sustainable development.

- **Reword the policy to read: “A Special Character Area is identified on the Policies Map. Within this area, proposals will *only* be supported where they *preserve or* enhance the distinct characteristics of the existing buildings and their setting.” [delete the existing second paragraph of the policy]**

## Community Action CA2

This is a clearly worded action for the Parish Council to work with BDC to consider the designation of a Conservation Area for the village.

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<sup>58</sup> NPPF para 124

<sup>59</sup> Ibid para 125

<sup>60</sup> Ibid para 124

<sup>61</sup> Ibid para 125

## Policy ASSN19 – Design Considerations

The NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.<sup>62</sup> It continues that neighbourhood plans can play an important role in identifying the special qualities of an area and explaining how this should be reflected in development.<sup>63</sup> It refers to design guides and codes to help provide a framework for creating distinctive places with a high and consistent quality of development.<sup>64</sup> It continues that planning policies should ensure developments function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history whilst not preventing change or innovation, establish or maintain a strong sense of place and optimise site potential.<sup>65</sup>

Policy ASSN19 is a long policy with numerous and varied criteria covering a wide range of issues. In essence, the policy seeks to deliver locally distinctive development of a high quality that protects, reflects and enhances local character leading on from CS Policies CS11 and CS15 in particular.

It refers to Appendix B which contains a Development Design Checklist based on the Design Guidelines produced by AECOM. I raised a query about this as Appendix B seems different to the Design Guidelines. In response I am advised there is an editing error and a corrected Appendix B has been submitted. There are five issues which should not appear and one, relating to wheelchair users, which is proposed for inclusion. Given that Appendix B is taken from a published document available at the submission stage, I do not consider anyone would be prejudiced by the substitution of this corrected Appendix B.

There is also a further drafting error to correct in the substituted Appendix B.

A number of other modifications are also recommended. The first is to delete the words “and circumstances” in the first sentence of the policy as this is open to interpretation.

The second is to remove the word “important” before open, green or landscaped areas in criterion c. as these areas have not been defined. The criterion also refers to gardens. I note that the NPPF allows for policies resisting the loss of gardens where this would cause harm to the prevailing character and setting of an area.<sup>66</sup> Given the character of the area and that the policy wording refers to a “significant contribution”, I consider this to be acceptable.

A further modification is made to reflect a comment from Anglian Water.

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<sup>62</sup> NPPF para 124

<sup>63</sup> Ibid para 125

<sup>64</sup> Ibid para 126

<sup>65</sup> Ibid para 127

<sup>66</sup> Ibid paras 70, 122

With these modifications, the policy will meet the basic conditions.

- **Substitute the corrected Checklist submitted with responses to questions on 15 December 2020 for the existing Appendix B**
- **Delete the second “How does the proposal affect the trees on or adjacent to the site?” from the Local Green Spaces, Views and Character section**
- **Delete the words “and circumstances” from the first sentence of the policy**
- **Delete the second “...and, as appropriate to the proposal.” from the second paragraph of the policy**
- **Delete the word “important” from criterion c.**
- **Change criterion i. to read: “through incorporation of sustainable drainage systems *where appropriate*, including, where feasible, *rainwater* and storm water harvesting, avoid resulting in water run-off that would add to or create surface water flooding;”**

### Policy ASSN20 – Sustainable Construction Practices

The Government introduced national technical standards for housing in 2015 as I have already mentioned. The WMS<sup>67</sup> explains that neighbourhood plans should not set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.

This policy applies to all new development not just housing. In order for it to meet the basic conditions, it should be made clear that the policy only relates to non-residential buildings. It otherwise does not seek to set standards, but rather promotes best practice in energy conservation, but to ensure that such measures do not have any harmful effects on the building concerned or its setting.

The policy is a local expression of the NPPF’s drive to meet the challenge of climate change and can be viewed as a positive strategy.<sup>68</sup> It generally conforms to the CS and CS Policies CS11, CS13 and CS15 in particular adding detail at the local level and will help to achieve sustainable development.

With this modification, the policy will meet the basic conditions.

- **Add a new sentence at the start of the policy that reads: “*This policy only applies to non-residential development.*”**

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<sup>67</sup> Written Ministerial Statement 25 March 2015

<sup>68</sup> NPPF paras 148, 151

## **Policy ASSN21 – Discharge of Sewage**

The Plan explains that the stream running through the centre of Assington is both an important feature for wildlife and recreation. However the quality of the stream has deteriorated over time.

Policy ASSN21 seeks to improve the quality of the stream and to enhance its biodiversity. This is in line with the NPPF which is clear that planning policies should contribute to and enhance the natural and local environment and in particular prevent new development from contributing to water pollution and, wherever possible, ensuring new development helps to improve local environmental conditions such as water quality.<sup>69</sup>

The policy takes account of national policy and guidance, is in general conformity with strategic policies and will help to achieve sustainable development. It meets the basic conditions and no modifications are therefore recommended.

## **10. Highways and Movement Around the Village**

There are no planning policies in this section, but three Community Actions.

### **Community Actions CA3, CA4 and CA5**

All are clearly worded actions aimed at addressing speeding traffic and encouraging walking and cycling and exploring new footpaths.

## **11. Infrastructure, Business and Services**

### **Policy ASSN22 – Community Facilities**

This policy identifies four facilities which are particularly valued by the community; the Public House (also a registered Asset of Community Value), the allotments, Assington Farm Shop and the village hall. It seeks to protect these existing facilities.

The second element of the policy encourages provision of improved broadband and mobile phone reception, increased post office and library services, improvements to the playing field and healthcare provision.

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<sup>69</sup> NPPF para 170

To support a prosperous rural economy, the NPPF expects planning policies to enable the retention and development of accessible local services and community facilities.<sup>70</sup> It also states that policies should guard against the unnecessary loss of valued facilities and services as part of its drive to promote healthy and safe communities.<sup>71</sup>

The clearly worded policy takes account of national policy. It is in general conformity with strategic policies particularly CS Policies CS11 which seeks to safeguard the needs of local communities and CS15 which seeks the retention, protection or enhancement of local services and facilities. It will help to achieve sustainable development. As a result it meets the basic conditions and it is not necessary to recommend any modification to it.

### **Policy ASSN23 – Open Space, Sport and Leisure Facilities**

This policy supports the provision and improvement of amenity, sport or recreation open space or facilities.

The loss of such spaces and facilities is prevented unless they are surplus to requirements or they will be replaced by equivalent or better provision in a suitable location.

New development is required to provide such areas as appropriate.

Finally, the policy requires associated buildings such as clubhouses or pavilions to be of a high standard of design including layout. Floodlighting is not supported where this would be intrusive.

The NPPF cites open space and sports venues as part of the local services and community facilities which planning policies should retain and enable.<sup>72</sup> In addition, the NPPF recognises that planning policies should help to achieve healthy, inclusive and safe places which enable and support healthy lifestyles.<sup>73</sup> It also encourages policies to provide recreational facilities and to guard against their unnecessary loss.<sup>74</sup>

The policy should be future proofed and a modification is made in this respect to criterion b. (STET).

With this modification, the policy will meet the basic conditions by taking account of national policy and guidance, being in general conformity with strategic policies and CS Policy CS15 in particular and will help to achieve sustainable development, particularly the social objective referred to in the NPPF which specifically mentions open space.

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<sup>70</sup> NPPF para 83

<sup>71</sup> Ibid para 92

<sup>72</sup> Ibid

<sup>73</sup> Ibid para 91

<sup>74</sup> Ibid para 92



- Add the words “*current and future*” before “...needs...” to the paragraph in the policy under criterion b.

### Policy ASSN24 – Local Businesses

There are a number of businesses in the Parish. These range from a hair salon to agricultural contractors.

Policy ASSN24 seeks firstly to retain and support existing employment premises subject to their impact on amenity, landscape character and highway safety.

It then sets out a number of criteria for non-employment uses on existing sites. The criteria are sensibly flexible. They cover viability and alternative uses, the loss of inappropriate uses, support employment related facilities such as crèches, and support alternative uses if that would provide benefits which outweigh the loss of the employment site.

It reflects the NPPF’s drive to build a strong, competitive economy<sup>75</sup> and to support the sustainable growth and expansion of all types of businesses in rural areas.<sup>76</sup>

It is in general conformity with the strategic policies and in particular CS Policy CS3 which supports employment uses that contribute to the local economy and increase the sustainability of Core and Hinterland Villages where scale, character and nature is appropriate to the locality and CS Policy CS15 which seeks to create jobs to strengthen or diversify the local economy.

It contributes towards the economic role of achieving sustainable development.

It therefore meets the basic conditions. It is not necessary to recommend any modifications to it.

### Policies Maps

The maps are clearly presented.

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<sup>75</sup> NPPF para 80

<sup>76</sup> Ibid para 83

## Appendices

Appendix A contains details of listed buildings. It usefully directs readers to seek the most up to date information from a reputable source.

Appendix B is the Development Design Checklist referred to in Policy ASSN19.

Appendix C lists sites with planning permission. This was a useful addition at earlier stages of the Plan's preparation, but consideration could be given to its removal now as it will quickly become outdated. This is not however a modification I need to recommend in respect of my remit.

## Glossary

The Plan includes a helpful glossary. However, the definition for "County Wildlife Sites" includes a statement which I consider to be inaccurate and for that reason deletion is recommended.

There should be a heading in one of the definitions.

There is a typo in one of the definitions.

- **Delete the sentence which begins "Under current planning policy..." from the definition of "County Wildlife Sites"**
- **Put "Strategic Environmental Assessment" as a heading**
- **Change the word "joints" in the definition of "Wildlife corridor" to "joins"**

## 8.0 Conclusions and recommendations

I am satisfied that the Assington Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Babergh District Council that, subject to the modifications proposed in this report, the Assington Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

I therefore consider that the Assington Neighbourhood Development Plan should proceed to a referendum based on the Assington Neighbourhood Plan area as approved by Babergh District Council on 29 June 2018.

*Ann Skippers* MRTPI

Ann Skippers Planning  
19 March 2021

## Appendix 1 List of key documents specific to this examination

Assington Neighbourhood Plan 2018 – 2036 Submission Draft Plan July 2020

Basic Conditions Statement August 2020

Consultation Statement July 2020

Strategic Environmental Assessment Screening Determination May 2020

Habitats Regulations Assessment Screening Determination May 2020

Strategic Environmental Assessment Screening Opinion Final Report March 2020 (Land Use Consultants)

Habitats Regulations Assessment Screening Report February 2020 (Place Services)

Site Assessment September 2019 (AECOM)

Design Guidelines Draft Final Report September 2019 (AECOM)

Supporting Document (SD) Area of Local Landscape Sensitivity

SD Assington Views Appraisal

SD Assington Local Green Space Assessment

SD Biodiversity: Flora and Fauna

SD Assington Residents Feedback and Comments

SD Assington Residents Survey Questionnaire Results

Babergh Local Plan 2011 – 2031 Core Strategy & Policies February 2014

Babergh Local Plan Alteration No. 2 adopted June 2006

Rural Development & Core Strategy Policy CS11 Supplementary Planning Document adopted August 2014

Affordable Housing Supplementary Planning Document adopted February 2014

Babergh and Mid Suffolk Joint Local plan Pre-Submission (Reg 19) Document November 2020

**List ends**

## Appendix 2 Questions of clarification from the examiner

### Assington Neighbourhood Plan Examination

#### Questions of clarification from the Examiner to the Parish Council and BDC

Having completed my initial review of the Neighbourhood Plan (the Plan), I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information. Please do not send or direct me to evidence that is not already publicly available.

1. Policies ASSN3 – ASSN8 allocate sites. Are any of the sites now under construction? Do the site boundaries indicated match the associated planning application sites (where this is applicable)?
2. Policy ASSN15 Local Green Spaces proposes the designation of ten spaces. One of the criteria for designation in the National Planning Policy Framework (paragraph 100) is that the green space is “local in character and is not an extensive tract of land”.

A number of the proposed Local Green Spaces lie adjacent to each other and so together form a large area. I have not yet been to visit the area, but feel it useful to highlight this issue to you and to ask whether the Parish Council wish to reconsider the areas put forward or to put forward a different way of dealing with the area concerned, for example through a new specific policy. Any changes to the submitted Plan would of course have to be considered in the light of the need for additional public consultation depending on what those revisions might be.

3. Does Policy ASSN16 Biodiversity have some missing text at the end of criterion i)?
4. A number of issues arise in relation to Policy ASSN19 Design Considerations;
  - a. The policy refers to the Development Design Checklist in Appendix B, but this is different to the Design Guidelines produced by AECOM and their similar section 4.15 on page 44 of that document. Is this intentional? If so, why?
  - b. Criterion c. of the policy refers to important open, green or landscaped area identified on the Policies Map; is this right - are they identified on the Policies Map? How should this be remedied if needs be?
  - c. Criterion d. ii. refers to important landscape characteristics; how and where are these identified?
  - d. Criterion g. refers to standards; please let me know which standards and where I might find them.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. These queries are raised without prejudice to the outcome of the examination.

Please note that this list of clarification questions is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils’ websites as appropriate.

With many thanks,  
Ann Skippers  
Independent Examiner  
9 December 2020